



January 22, 2010

**Ex Parte**

Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Re: **GN Docket No. 09-191 and WC Docket No. 07-52**

Dear Ms. Dortch:

On January 21, 2010, Kenneth L. Doroshow, Gina M. Grandinetti, and Michael D. Warnecke of the Entertainment Software Association ("ESA") met with several FCC officials to discuss ESA's views on the network neutrality NPRM. Those FCC officials included: Zachary Katz, Deputy Chief, Office of Strategic Planning & Policy Analysis; David Tannenbaum, Special Counsel, Office of the General Counsel; Jon Peha, Ph.D., Chief Technologist, Office of Strategic Planning & Policy Analysis; Julius Knapp, Chief, Office of Engineering and Technology; Sharon Gillett, Chief, Wireline Competition Bureau; and Jennifer Prime, Attorney-Advisor, Wireline Competition Bureau.

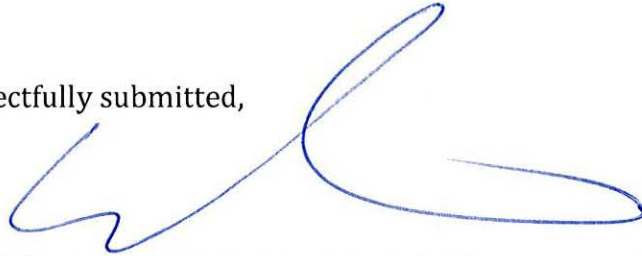
During the meeting, we discussed the three central arguments from ESA's filing: (1) that ESA supports language in the NPRM that gives ISPs flexibility to address online copyright infringement; (2) that the FCC should clarify that the second net neutrality principle permits ISPs to prevent not only categorically unlawful applications and services but also unlawful *uses* of applications and services; and (3) that the FCC should limit the scope of application of the network neutrality principles to broadband ISPs.

We also discussed the nature and extent of piracy in the video game industry, including the differences between PC and console game piracy, and the role of circumvention devices. We also discussed the fact that online games can be latency sensitive.

Mr. Katz requested that ESA provide the FCC various economic data regarding the size of the video game industry. We are gathering that information and will submit that to the Commission shortly.

In accordance with the Commission's rules, ESA is electronically filing a copy of this letter in the above-referenced dockets. Please let us know if you have any questions concerning this submission.

Respectfully submitted,



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Kenneth L. Doroshow  
Senior Vice President & General Counsel

cc: Zachary Katz (via email)  
David Tannenbaum (via email)  
Jon Peha (via email)  
Julius Knapp (via email)  
Sharon Gillett (via email)  
Jennifer Prime (via email)